

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PETER M. ARENA,

Plaintiff,

v.

NAVARRO, *et al.*,

Defendants.

Case No. 1:20-cv-00617-BAM (PC)

ORDER GRANTING REQUEST TO OPT-
OUT OF ADR PROJECT
(ECF No. 22)

ORDER LIFTING STAY OF PROCEEDINGS

ORDER VACATING MAY 7, 2021
SETTLEMENT CONFERENCE
(ECF No. 21)

ORDER DIRECTING CLERK OF COURT TO
ISSUE DISCOVERY AND SCHEDULING
ORDER

Plaintiff Peter M. Arena (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Medina, Allison, Ramos, Pacheco, and Navarro for excessive force in violation of the Eighth Amendment.

On February 22, 2021, the Court identified this case as an appropriate case for the post-screening ADR (Alternative Dispute Resolution) project, and stayed the action to allow the parties an opportunity to settle their dispute before the discovery process begins. (ECF No. 21.) The Court’s order granted Defendants time to investigate and determine whether to opt out of the post-screening ADR project.

On March 24, 2021, Defendants filed a request to opt-out of the ADR project. (ECF No. 22.) Defense counsel states that it appears that Plaintiff did not properly exhaust his

1 administrative remedies before filing suit, and Plaintiff's offer to settle was too high in light of
2 Defendants' exhaustion defense. In addition, Plaintiff owes victim restitution, which would be an
3 impediment to even a nuisance-value settlement. Defense counsel further states that their motion
4 for summary judgment on the issue of exhaustion is nearly complete, and will be ready to file
5 within the next two to three weeks. Defendants intend to file their motion, and to separately
6 move to stay all merits-based discovery, as soon as possible. Therefore, Defendants believe that a
7 settlement conference would not be beneficial at this time, and request to opt-out of the ADR
8 project. (Id.)

9 After review, the Court finds good cause to grant Defendants' request. Therefore, the stay
10 is lifted, and the May 7, 2021, settlement is vacated. This case is now ready to proceed.

11 If the parties wish to set a settlement conference with the Court at a later date, they should
12 so inform the Court. However, the parties are also reminded that they are not precluded from
13 negotiating a settlement without judicial assistance.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Defendants' request to opt out of early alternative dispute resolution, (ECF No.
16 22), is GRANTED;
- 17 2. The stay of this action, (ECF No. 21), is LIFTED;
- 18 3. The May 7, 2021 settlement conference is VACATED;
- 19 4. The Clerk of the Court is DIRECTED to issue a discovery and scheduling order;
20 and
- 21 5. The parties may proceed with discovery pursuant to the discovery and scheduling
22 order to be issued by separate order.

23
24 IT IS SO ORDERED.

25 Dated: March 25, 2021

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
28